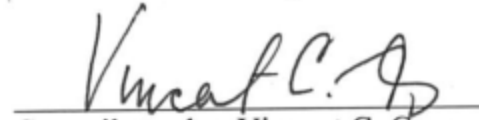



Chairman Phil Mendelson

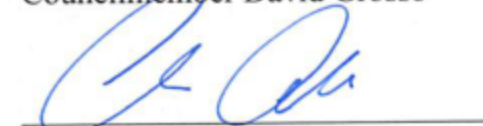

Councilmember Mary M. Cheh


Councilmember Brianne K. Nadeau


Councilmember Vincent C. Gray


Councilmember David Grosso


Councilmember Brandon T. Todd


Councilmember Charles Allen


Councilmember Jack Evans

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Sustainable Solid Waste Management Amendment Act of 2014 to require the Mayor to prepare plans for comprehensive organics site management and for recycling infrastructure in the public space, create training and outreach guides on source separation, and establish a uniform labeling scheme, to require large commercial food waste generators to source separate commercial food waste, to require waste collectors to address contamination in recyclables and compostables, to require certain private collection properties to separate glass, to require private collection properties to develop a waste management plan, to require the Mayor to impose a surcharge on recycling disposed of at District transfer stations when recycling loads exceed a contamination threshold, to establish a reuse and donation program to reduce needless waste and increase diversion of reusable materials from landfills and incineration, to establish an extended producer responsibility program for batteries, and to establish an extended producer responsibility program for home-generated sharps waste; to amend the Sustainable DC Omnibus Amendment Act of 2014 to require food service entities providing compostable disposable food service ware to source-separate and process compostable materials, to require that food service entities only provide accessory disposable food service ware upon request by the customer or at a self-serve station, and to require that food service entities, when selling or providing food for consumption on premises, only use reusable food service ware; and to repeal section 704.2 of title 21 of the District of Columbia Municipal Regulations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Zero Waste Omnibus Amendment Act of 2019”.

Sec. 2. Title I of the Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code § 8-1031.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 8-1031.01) is amended as follows:

(1) A new paragraph (1A) is added to read as follows:

“(1A) “Commercial food waste” means food waste produced by the production and preparation of human or animal food at a commercial establishment, excluding food waste disposed of by customers of the establishment.”.

(2) A new paragraph (8B) is added to read as follows:

“(8B) “Food service establishment” means full-service restaurants, limited-service restaurants, fast food restaurants, business, institutional, or government agency cafeterias, including those operated by or on behalf of District departments and agencies, and other entities selling or providing food within the District for consumption on or off the premises. The term “food service establishment” shall not include retail food stores, convenience stores, or pharmacies.”.

(3) The existing text of paragraph (8A) is designated as paragraph (8B).

(4) Paragraph (8A) is amended to read as follows:

“(8A) “Food waste” means material produced from human or animal food production, preparation, and consumption activities, including fruits, vegetables, grains, and fish and animal products and byproducts.”.

(5) New paragraphs (10A), (10B), (10C), and (10D) are added to read as follows:

70 “(10A) “In vessel composting” means a process in which organic waste is
71 enclosed in a drum, silo, bin, tunnel, reactor, or other container for the purpose of producing
72 compost, maintained under controlled conditions of temperature and moisture and where air-
73 borne emissions are controlled.

74 “(10B) “Large commercial food waste generator” means:

75 “(A) A retail food store:

76 “(i) With at least 50 employees; or

77 “(ii) That is part of a chain that

78 “(I) Operates the retail food stores under common
79 ownership or control and receives waste collection from
80 the same private collector;

81 “(II) Consists of 3 or more retail food stores; and

82 “(III) Has at least 50 employees.

83 “(B) A food service establishment with at least 75 employees;

84 “(C) A college or university with at least 200 employees;

85 “(D) A school with at least 100 employees;

86 “(E) A hospital or nursing home, as defined in section 2 of the Health-
87 Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983,
88 effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501) with at least 100
89 employees;

90 “(F) Arenas or stadiums having a seating capacity of at least fifteen
91 thousand persons;

92 “(G) Any food service establishments located within a hotel providing
93 food to one or more hotels totaling at least 100 sleeping rooms; and

94 “(H) Any other facilities added by DPW by rule, based on an evaluation of
95 the available processing capacity of all organic waste processing facilities within 25 miles of the
96 District and the cost of processing organic waste.

97 “(10C) “Organic waste” means compostable solid waste, such as food waste and
98 yard waste.

99 “(10D) “Organic waste processing facility” means a facility that processes organic
100 waste through composting, aerobic digestion, or anaerobic digestion.”.

101 (6) A new paragraph (12A) is added to read as follows:

102 “(12A) “Public litter container” means a trash receptacle installed by a public
103 agency or private entity, including a business improvement district established pursuant to the
104 Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134, 43
105 DCR 1684; D.C. Official Code § 2-1215.01 *et seq.*), at a public sidewalk, park, or other public
106 space.”.

107 (7) A new paragraph (14A) is added to read as follows:

108 “(14A) “Retail food store” means any establishment or section of an
109 establishment where food and food products offered to the consumer are intended for off-
110 premises consumption. The term “retail food store” shall not include convenience stores,
111 pharmacies, farmers markets, and food service establishments.”.

112 (b) Section 103 (D.C. Official Code § 8-1031.03) is amended as follows:

113 (1) Subsection (c) is amended as follows:

114 (A) The existing text is designated as paragraph (1).

115 (B) A new paragraph (2) is added to read as follows:

116 “(2) By January 1, 2021, the Mayor shall submit to the Council a comprehensive
117 Organics Site Management Plan that describes how the District will manage residential and
118 commercial organic waste, including:

119 “(A) Determining the locations of and relationships between an in-District
120 composting site, a pre-processing site for co-digestion, and co-digestion at Blue Plains;

121 “(B) Permitting and zoning requirements for a pre-processing facility; and

122 “(C) Environmental considerations, including air pollution controls,
123 greenhouse gas emissions, stormwater runoff and environmental emissions.”.

124 (2) Subsection (d) is amended to read as follows:

125 “(d) The Mayor shall establish a uniform color, design, and labeling scheme for public
126 collection property waste containers in the District and for waste containers at all District
127 facilities, agencies, and departments.”.

128 (3) New subsections (e) and (f) are added to read as follows:

129 “(e) By January 1, 2021, the Mayor shall prepare a plan for how to provide recycling
130 infrastructure in the public space. The plan shall make recycling available as appropriate with
131 public litter containers, and require businesses providing public litter containers to provide
132 recycling containers, as appropriate.

133 “(f) The Mayor shall create training and outreach guides on proper source separation for
134 janitorial staff at District-owned properties, multifamily properties, and commercial properties.
135 The training and outreach guides shall be updated on an annual basis.”.

136 (c) A new section 103a is added to read as follows:

“Sec. 103a. Mandatory back-of-house composting for large commercial food waste generators.

“(a) Except as provided in subsection (b) of this section, by January 1, 2021, a large commercial food waste generator shall:

“(1) Source-separate all commercial food waste generated at its premises and either:

“(A) Arrange with a private collector for the separate collection of such food waste to an organic waste processing facility;

“(B) Transport its own waste to an organic waste processing facility; or

“(C) Provide for on-site organic waste processing; provided, that any on-site composting must be in vessel, and that the commercial food waste generator arranges for the collection or transport of the remainder of such organic waste in accordance with subparagraph (A) or (B) of this paragraph;

“(2) Provide separate bins for the disposal of commercial food waste in any employee work area where such waste is generated by employees;

“(3) Ensure proper storage for commercial food waste onsite that will ensure that it is maintained separately from all other materials generated at the premises, is not commingled with recyclable material or trash, and does not create a public nuisance;

“(4) Provide information and training to employees concerning the proper methods to separate and store food waste, as well as posted instructions on the proper separation of food waste where such instructions will be visible to persons who are disposing of food waste; and

159 “(5) Post a sign that states clearly and legibly the trade or business name, address,
160 and telephone number of, and the day and time of pickup by, the private collector that collects
161 the food waste, that such establishment transports its own food waste, or that such establishment
162 provides for on-site processing for all food waste it generates on its premises.

163 “(b)(1) The requirement in subsection (a) of this section shall only apply to entities within
164 25 miles of an organic waste processing facility with capacity to accept all of such generator’s
165 commercial food waste.

166 “(2) When a large commercial food waste generator arranges for contractual
167 services, the contract or work agreement between the large commercial food waste generator and
168 the service provider shall require the organic waste generated by those services to be managed in
169 compliance with this section.

170 “(c) A large commercial food waste generator that provides for on-site organic waste
171 processing pursuant to subsection (a)(1)(C) of this section for some or all of the food waste it
172 generates shall:

173 “(1) To the extent practicable, weigh and measure by volume the amount of food
174 waste disposed of by any such method on-site, and retain records of such weights and
175 measurements for a period of 3 years; and

176 “(2) Provide equipment on site that is properly sized to handle and process food
177 waste generated at the premises in a safe and sanitary manner.

178 “(d) Collectors of source-separated food waste shall deliver food waste directly to a
179 facility for the purposes of composting, aerobic or anaerobic digestion, or any other method of
180 processing organic waste that DPW approves by rule.

181 “(e)(1) All businesses or District-owned buildings shall separate their excess edible food
182 for donation for human consumption to the maximum extent practicable.

183 “(2) Large commercial food waste generators shall submit an annual report to the
184 Mayor summarizing the amount of edible food donated, the amount of food waste recycled, the
185 organic waste processing facility and/or collectors used, and any other information as required by
186 the Mayor.

187 “(f) The Mayor shall not prohibit food service establishments from composting or source
188 separating organic waste.”.

189 (d) Section 104 (D.C. Official Code § 8-1031.04) is amended as follows:

190 (1) Subsection (a)(3) is amended by striking the phrase “of any janitorial
191 employed at the property.” and inserting the phrase “for all staff employed at the property;” in its
192 place.

193 (2) A new subsection (a-1) is added to read as follows:

194 “(a-1) All bars and restaurants selling alcohol for on-premises consumption shall
195 separate, store, and provide for collection for recycling of all recyclable glass beverage
196 containers of all beverages sold on the premises, and arrange for recycling services that haul
197 source-separated glass to a glass recycling facility.”.

198 (3) Subsection (b) is amended to read as follows:

199 “(b)(1) The Mayor shall require a private collection property owner to submit a source
200 separation plan, updated on an annual basis, outlining the steps the property owner will take to
201 implement the requirements of this act. At a minimum, the plan shall include:

202 “(A) Designation of an agent responsible for carrying out the plan;

203 “(B) A description of the private collection property, including the name,
204 address, and telephone number of the contact person responsible for the on-site recycling
205 program;

206 “(C) A description of the private waste collection services, including the
207 trade or business name, address, and telephone number of, and the day and time of pickup by, the
208 collectors that collect the private collection property’s solid waste, as well as the sites where the
209 materials are delivered;

210 “(D) A list of materials to be recycled;

211 “(E) A description of the property owner’s efforts to educate tenants,
212 residents, employees, and/or customers about its source separation program; and

213 “(F) A description of how the private collection property will recycle or
214 reduce the amount of solid waste going to disposal facilities.

215 “(2) The Mayor shall provide electronic forms, as appropriate, to assist private
216 collection properties with meeting the requirements of this subsection.”.

217 (e) Section 105 (D.C. Official Code § 8-1031.05) is amended as follows:

218 (1) Subsection (a) is amended by striking the phrase “intended,” and inserting the
219 phrase “intended, in a manner that allows users to easily identify which containers to use for
220 recyclables, compostables, or trash,” in its place.

221 (2) A new subsection (a-1) is added to read as follows:

222 “(a-1) (1) If a collector finds materials that are not the correct type as designated for that
223 container, such as trash in a compostables or recyclables container, the collector shall leave a tag
224 on the container identifying the incorrect materials.

225 “(2) If the collector continues to find incorrect materials in a recycling or
226 compostables collection container exceeding a contamination threshold set by the Mayor, after
227 the collector has already left 2 or more tags for that customer and that type of container, the
228 collector may refuse to empty to the container; provided, that it may not refuse on this basis to
229 empty containers from multifamily or commercial properties with multiple tenants and joint
230 account collection services. If the container is not emptied, the collector shall send a written
231 notice to the subscriber identifying the incorrect materials and describing what action must be
232 taken for the materials to be collected.

233 “(3) The collector shall, upon request, provide to the Mayor a list of the names
234 and addresses of private collection properties that have received tags, notices, or whose
235 containers have not been emptied due to exceeding a contamination threshold.”.

236 (3) Subsection (b) is amended as follows:

237 (A) A new paragraph (2A) is added to read as follows:

238 “(2A) The contamination rate of collected recycling and compost.”.

239 (B) Paragraph (3) is amended to read as follows:

240 “(3) The names and locations of each recycling, composting, landfill, incineration,
241 or any other waste processing or disposal facility to which the tonnage reported in paragraph (1)
242 of this subsection was delivered, as well as the tonnage of solid waste delivered to each facility.”.

243 (4) A new subsection (g) is added to read as follows:

244 “(g) Collectors who deliver for disposal solid waste at a District transfer station shall,
245 upon the request of DPW, provide an accurate list of all customer locations from which waste
246 was collected for the load carried at the time of the request.”.

(f) Subsection 111(a) (D.C. Official Code § 8-1031.11(a)) is amended by adding a new paragraph (3) to read as follows:

“(3) A surcharge on the disposal of recycling at a solid waste disposal facility owned by the District where the recycling load exceeds a contamination threshold to be determined by the Mayor. Revenue from this surcharge shall be deposited into the Solid Waste Disposal Cost Recovery Fund established by section 6013 of the Fiscal Year 2008 Budget Support Act of 2007, effective September 18, 2007 (D.C. Law 17-20; D.C. Official Code § 1-325.91).”.

(g) Subsection 112(c) (D.C. Official Code § 8-1031.12(c)) is amended to read as follows:

“(c) Money in the Fund shall be used to develop and sustain new and additional methods of solid waste diversion in the District, including grants to reduce production of waste in the District, including fixit clinics, exchanges, and donation facilities.”.

(h) A new section 112c is added to read as follows:

“Sec. 112c. Donation and Reuse Program.

“(a) There is established a Donation and Reuse Program (“Program”) to be administered by DOEE, to reduce needless waste and increase diversion of reusable material from landfills and incineration through donation and reuse.

“(b) The Program shall:

“(1) Develop public-facing technology platforms for direct donation coordination and to facilitate exchange of gently used and surplus materials;

“(2) Increase public awareness and access to opportunities for reuse and donation;

“(3) Support and expand the District’s reuse infrastructure, through site donation drop-off at transfer stations, fixit clinics, and non-governmental donation facilities; and

270 “(4) Prepare for and respond to emergency situations that result in surges of
271 unsolicited donations.

272 “(c) DOEE may issue grants to community organizations and businesses to further the
273 objectives of this section.”.

274 (i) A new Subtitle C is added to read as follows:

275 “SUBTITLE C. EXTENDED PRODUCER RESPONSIBILITY FOR BATTERIES.

276 “Sec. 127. Definitions.

277 “For the purposes of this subtitle, the term:

278 “(1) “Battery” means primary batteries and rechargeable batteries. It does not
279 mean a battery contained within a medical device, as specified in 21 U.S.C. § 360c; provided,
280 that the device is not designed and marketed for sale or resale principally to consumers for
281 personal use.

282 “(2) “Battery-containing product” means a product containing a rechargeable or
283 primary battery.

284 “(3) “Collection rate” means a percentage, by weight, that each producer with an
285 individual plan or battery stewardship organization collects by an established date and that is
286 calculated by dividing the total weight of batteries that were estimated to have been sold in the
287 District by participating producers during the previous 3 calendar years.

288 “(4) “DOEE” means the District Department of Energy and Environment.

289 “(5) “Performance goal” means a metric proposed in a battery stewardship plan to
290 measure, on an annual basis, the performance of that plan, taking into consideration technical
291 feasibility and economic practicality, in achieving continuous, meaningful progress to improve
292 the rate of battery recycling in the District. The term “performance goal” shall include target

293 collection rates, target recycling efficiencies by battery recycling process, and goals for
294 convenience and accessibility.

295 “(6) “Primary battery” means a nonrechargeable battery weighing two kilograms
296 or less, including alkaline, carbon-zinc, and lithium metal batteries.

297 “(7) “Producer” means a person who owns or licenses a trademark or brand under
298 which a battery is sold, offered for sale or distributed, or who imports the battery into the country
299 for sale or distribution in or into the District.

300 “(8) “Rechargeable battery” means one more voltaic or galvanic cells, electrically
301 connected to produce electric energy and designed to be recharged and weighing less than 11
302 pounds or a battery pack designed to be recharged that weighs less than 11 pounds and that is
303 designed to provide less than 40 volts direct current. The term “rechargeable battery” shall not
304 include a battery that contains electrolyte as a free liquid, or a battery or battery pack that
305 employs lead-acid technology, unless that battery or battery pack is sealed.

306 “(9) “Recycling” means the series of activities, including separation, collection,
307 and processing, through which materials are recovered or otherwise diverted from the solid waste
308 stream for use as raw materials or in the manufacture of products other than fuel.

309 “(10) “Retailer” means any person who sells batteries in the District or offers
310 batteries in the District to a consumer.

311 “Sec. 128. Sale of batteries.

312 “(a) No retailer shall sell or offer for sale a battery unless the producer of the battery:

313 “(1) Has an approved battery stewardship plan in accordance with section 130 of
314 this subtitle;

315 “(2) Is a member of a battery stewardship organization pursuant to section 129 of
316 this subtitle with an approved battery stewardship plan; or

317 “(3) Is exempt from the requirement to have such a plan or participate in such an
318 organization, as determined by a review of the producers and brands listed on the Internet web
319 site of approved plans.

320 “(b) A retailer shall not be responsible for an unlawful sale of a battery under subsection
321 (a) of this section if:

322 “(1) The retailer purchased the battery prior to the effective date of this subtitle
323 and sells the battery within six months of the effective date;

324 “(2) The producer’s battery stewardship plan expired, and the retailer took
325 possession of the in-store inventory of batteries before the expiration of the stewardship plan.

326 “(c) Retailers shall:

327 “(1) Ensure that the brands they sell are compliant by reviewing the producers and
328 brands listed on the website of approved plans;

329 “(2) Provide educational materials to consumers about battery collection options
330 supplied by the stewardship organization or producer; and

331 “(3) If the retailer serves as collection site, visibly promote drop off at their
332 location.

333 “Sec. 129. Battery stewardship organizations.

334 “(a) A producer of covered batteries may meet the requirements of this subtitle by
335 participating in a battery stewardship organization that undertakes the producer’s responsibilities
336 under this subtitle.

337 “(b) A battery stewardship organization shall:

338 “(1) Develop and submit a stewardship plan that meets the requirements of
339 section 130;

340 “(2) Maintain a public, regularly updated website that lists all producers and
341 producers’ brands covered by the battery stewardship organization’s approved collection plan;

342 “(3) Ensure that all producers covered by the approved collection plan are using
343 compliant batteries;

344 “(4) Provide retailers, government agencies, nonprofit organizations, and all
345 collection sites with education materials describing collection opportunities for batteries; and

346 “(5) Cover all costs for battery collection, transportation, processing, education,
347 administration, recycling, and end-of-life handling in accordance with environmentally sound
348 management practices.

349 “(c) Beginning January 1, 2021, and annually thereafter, a battery stewardship
350 organization shall file a registration form with DOEE. The registration form shall require the
351 following information:

352 “(1) A list of the producers participating in the primary battery stewardship
353 organization;

354 “(2) The name, address, and contact information of a person responsible for
355 ensuring a producer’s compliance with this subtitle;

356 “(3) A description of how the battery stewardship organization proposes to meet
357 the requirements of subsection (b) of this section, including any reasonable requirements for
358 participation in the battery stewardship organization; and

359 “(4) The name, address, and contact information of a person for a nonmember
360 producer to contact on how to participate in the battery stewardship organization.

361 “Sec. 130. Battery stewardship plan.

362 “(a) On or before January 1, 2021, each producer selling, offering for sale, distributing, or
363 offering for promotional purposes a battery in the District shall individually or as part of a
364 battery stewardship organization submit a battery stewardship plan to DOEE for review.

365 “(b) Each battery stewardship plan shall include, at a minimum:

366 “(1) A list of producers and brands, including:

367 “(A) All participating producers and contact information for each of the
368 participating producers; and

369 “(B) The brands of batteries covered by the plan;

370 “(2) A description of the financing method used to implement the plan, taking into
371 account that the plan must provide for producer- or organization-financed end-of-life
372 management for discarded batteries collected;

373 “(3) Performance goals for each of the first three years of the program, including
374 the estimated total weight of batteries that will be sold or offered for sale in the District by the
375 producer or the producers participating in the battery stewardship plan;

376 “(4) A description of how the producer or battery stewardship organization will
377 provide for the convenient collection of batteries from consumers as required by subsection (c)
378 of this section;

379 “(5) A description of how the program will ensure that the components of the
380 discarded batteries are recycled to the maximum extent economically and technically feasible;
381 and;

382 “(6) A list of all key participants in the battery collection program, including:

383 “(A) The names of the collection facilities accepting batteries under the
384 plan, including the address and contact information for each facility;

385 “(B) The name and contact information of a transporter or contractor
386 collecting batteries from collection facilities; and

387 “(C) The name, address, and contact information of the recycling facilities
388 that process the collected batteries; and

389 “(7) A description of the education and outreach program that will be used to
390 inform consumers about the program, which must, at a minimum, notify the public that there is a
391 free collection program for all batteries as well as the location of the collection points and how to
392 access the collection program.

393 “(c) All plans shall provide for collection of all batteries on a free, continuous,
394 convenient, and accessible basis, which at a minimum requires that:

395 “(1) Battery collection be provided at no cost to consumers, retailers, or the
396 District;

397 “(2) All retailers who meet the requirements specified in the plan, and all solid
398 waste management facilities, may opt to be a collection facility;

399 “(3) The plan must provide for a minimum of one collection site per 10,000
400 people, with a reasonable geographic spread of collection sites across all 8 wards, and an
401 explanation for the geographic spread;

402 “(4) Collection facilities must provide for the acceptance of up to 100 batteries
403 per visit, and must accept all batteries regardless of type or brand.

404 “(d) An approved battery stewardship plan shall have a term not to exceed 5 years;
405 provided, that the battery producer battery stewardship organization remains in compliance with
406 the requirements of this subtitle and the terms of the approved battery stewardship plan.

407 “(e) Each producer or stewardship organization shall be responsible for the collection and
408 recycling of batteries equivalent to their national market share of sales of batteries.

409 “(f) DOEE may require any producer or stewardship organization to submit a revised
410 plan if the approved plan is not meeting performance goals.

411 “Sec. 131. Annual reporting.

412 “(a) On or before January 1, 2021, and annually thereafter, a producer or battery
413 stewardship organization shall submit a report to DOEE that includes the following:

414 “(1) The weight of the batteries collected by the producer or the battery
415 stewardship program in the prior calendar year;

416 “(2) The weight and type of material recycled from batteries collected under the
417 program, in total, and by battery recycling process;

418 “(3) The estimated total sales, by weight, of batteries and batteries contained in or
419 with battery-containing products sold in the District by or on behalf of participating producers,
420 for the each of the previous 3 calendar years;

421 “(4) The collection rate achieved in the prior calendar year under the battery
422 stewardship plan and how this rate was calculated, including a report of the estimate total sales
423 data by weight for batteries sold in the District for the previous 3 calendar years;

424 “(5) The locations and contact information, including website links, for all
425 collection sites, as well as a map indicating the location of all collection sites in the District;

426 “(6) A description of the educational materials that support the program, including
427 examples, as well as an evaluation of the success of the education and outreach effort and how it
428 can be improved;

429 “(7) A description of the manner in which the collected batteries were sorted,
430 consolidated, managed, and processed, including the manner in which the collected batteries
431 were recycled and a discussion of best available technologies and recycling efficiency rates;

432 “(8) An explanation of why collection targets were not met, if applicable;

433 “(9) The costs of implementation of the battery stewardship plan, including the
434 costs of collection, recycling, education, and outreach; and

435 “(10) An evaluation of the effectiveness of methods and processes used to achieve
436 the performance goals of the program.

437 “(b) No later than the second annual report, and at least every 2 years thereafter, the
438 producer or battery stewardship organization shall submit updated performance goals to DOEE
439 for approval, based on the implementation of the program up until that point.

440 “(c) In the event a producer or battery stewardship organization does not meet the annual
441 collection rate performance goal, the producer or battery stewardship organization shall be
442 required to conduct more outreach, provide additional education materials, or improve collection
443 accessibility, as determined by DOEE.

444 “(d) After 5 years of implementation of an approved battery stewardship plan, a battery
445 producer or battery stewardship organization shall hire an independent third party to conduct a
446 one-time audit of the battery stewardship plan and plan operation. The auditor shall examine the
447 effectiveness of the battery stewardship plan in collecting and recycling batteries, and compare
448 the cost-effectiveness of the plan to that of collection plans or programs for batteries in other

jurisdictions. The independent auditor shall submit the results of the audit to DOEE as part of the annual report required under subsection (a) of this section.

“Sec. 132. Department responsibilities.

“(a)(1)(A) Within 90 days after receipt of a proposed battery stewardship plan, not including the time for public comment required under paragraph (3) of this subsection, DOEE shall determine whether the plan complies with the requirements of section 130. DOEE shall notify the applicant of the plan approval or rejection in writing.

“(B) If DOEE rejects a proposed plan, DOEE shall include the reasons for rejecting the plan. An applicant whose plan is rejected by DOEE shall submit a revised plan within 45 days of receiving notice of rejection.

“(2) Any changes to a proposed battery stewardship plan shall be approved by DOEE in writing. DOEE, in its discretion or at the request of a producer, may require a producer or a battery stewardship organization to amend an approved plan.

“(3) DOEE shall post all proposed battery stewardship plans, including any proposed amendments, its website for 30 days from the date the application is deemed complete, and shall provide for public review and comment.

“(b) DOEE shall accept, review, and approve or deny battery stewardship organization registrations submitted under section 129(c).

“(c) DOEE shall maintain a website that includes:

“(1) A copy of all approved battery stewardship plans;

“(2) The names of producers with approved plans or participating in approved plans;

471 “(3) A list of all approved brands covered by a battery stewardship plan filed with
472 the Department; and

473 “(4) Links to producer and battery stewardship organization websites that list
474 compliant brands for retailers to determine their compliance.

475 “(d) Every 5 years, DOEE shall report on the status of the battery recycling program and
476 provide this report to the Council and on its website. The report shall include:

477 “(1) The amount, by weight, of batteries collected under approved battery
478 stewardship plans;

479 “(2) The percentage of collected batteries not covered by or attributable to a
480 battery producer implementing an approved battery stewardship plan or participating in an
481 approved battery stewardship organization; and

482 “(3) Recommendations for any amendments to this subtitle.

483 “(e) DOEE shall assist in educational and outreach efforts to inform the public about the
484 battery stewardship program.

485 “(f) DOEE may charge an administrative fee to producers to cover Department’s
486 oversight costs, including planning, plan review, annual oversight, enforcement, and other
487 directly related tasks.

488 “Sec. 133. Antitrust; conduct authorized.

489 “(a) A producer, group of producers, or battery stewardship organization implementing or
490 participating in an approved battery stewardship plan under this subtitle for the collection,
491 transport, processing, and end-of-life management of primary batteries shall be immune from
492 liability for the conduct under District laws relating to antitrust, restraint of trade, unfair trade

practices, to the extent that the conduct is reasonably necessary to comply with the provisions of this law.

(b) Subsection (a) of this section shall not apply to an agreement among producers, groups of producers, retailers, wholesalers, or battery stewardship organizations affecting the price of batteries or any agreement restricting the geographic area in which, or customers to whom, batteries shall be sold.

“Sec. 134. Disposal ban.

“(a) Beginning January 1, 2022, no person in the District shall knowingly dispose of batteries in the District except through recycling programs or other methods approved by the Mayor.

“(b) Beginning January 1, 2021, no manufacturer shall dispose of batteries in the District except through recycling programs or other methods approved by the Mayor.”.

(i) A new subtitle D is added to read as follows:

“SUBTITLE D. EXTENDED PRODUCER RESPONSIBILITY FOR SHARPS WASTE.

“Sec. 135. Definitions

“For the purposes of this subtitle, the term:

“(1) “Authorized collection site” means a location where an authorized collector operates at least one secure collection receptacle for collecting covered products.

“(2) “Authorized collector” means a person or entity that has entered into an agreement with a program or operator to collect covered products.

“(3) “Covered entity” means the manufacturer or importer of covered products that are sold in or into the District.

“(4) “Covered product” means home-generated sharps waste.

516 “(5) “DOEE” means the District Department of Energy and Environment.

517 “(6) “End user” means a District resident or other nonbusiness entity and includes
518 a person who has obtained, and who possesses, a covered product, for his or her own use or for
519 the use of a member of his or her household. The term “end user” does not include a medical
520 waste generator as defined in this chapter.

521 “(7) “Home-generated sharps waste” means sharps derived from a household,
522 including a multifamily residence or household.

523 “(8) “Medical waste generator” means any person whose business act or process
524 produces medical waste, including:

525 “(A) Medical and dental offices, clinics, hospitals, surgery centers,
526 laboratories, research laboratories, chronic dialysis clinics, and education and research facilities;

527 “(B) Veterinary offices, veterinary clinics, and veterinary hospitals;

528 “(C) Pet shops; and

529 “(D) Trauma scene waste management practitioners.

530 “(9) “Program operator” means a covered entity, or stewardship organization on
531 behalf of a group of covered entities, that is responsible for operating a stewardship program in
532 accordance with this subtitle.

533 “(10) “Sharps” means hypodermic needles, pen needles, intravenous needles,
534 lancets, and other devices that are used to penetrate the skin for the delivery of medications.

535 “(11) “Stewardship organization” means an organization established by a group of
536 covered entities in accordance with this subtitle to develop, implement, and administer a
537 stewardship program under this subtitle.

538 “(12) “Stewardship plan” means the plan that is developed by a covered entity or
539 stewardship organization under this subtitle for collecting and properly managing covered
540 products.

541 “(13) “Stewardship program” means a stewardship program for the collection,
542 transportation, and disposal of covered products.

543 “Sec. 136. Sale of covered products.

544 “(a)(1) No covered entity shall sell or offer for sale a covered product in the District
545 unless the covered entity is subject to an approved stewardship plan submitted by the covered
546 entity or by a stewardship organization that includes the covered entity, that has been approved
547 by DOEE under section 138.

548 “(b) The sale, distribution, or offering for sale of any inventory that was in stock before
549 the commencement of a stewardship program is exempt from this section and is not required to
550 be subject to a stewardship plan.

551 “Sec. 137. Covered entities and stewardship organizations.

552 “(a)(1) No later than January 1, 2021, a covered entity shall provide to the Mayor a list of
553 covered products and a list and description of any sharps that are not covered products that it
554 sells or offers for sale in the District.

555 “(2) A covered entity, or a stewardship organization on behalf of a covered entity,
556 shall update the lists described in this subsection and provide the updated lists to DOEE on or
557 before January 15 of each year or upon request by DOEE.

558 “(b) Each covered entity, whether individually or through a stewardship organization,
559 shall pay all administrative and operational costs associated with establishing and implementing

the stewardship program in which it participates, including the cost of collecting, transporting, and disposing of covered products.

“Sec. 138. Stewardship plans.

“(a) On or before January 1, 2021, each covered entity shall individually or as part of a stewardship organization submit a stewardship plan to DOEE for review.

“(b) Each stewardship plan shall include, at a minimum:

“(1) Contact information for the stewardship organization, if applicable, and each participating covered entity;

“(2) Identification of each covered product sold or offered for sale by each participating covered entity;

“(3) Contact information for the authorized collectors for the stewardship program, as well as the reasons for excluding any potential authorized collectors from participation in the program;

“(4) Demonstration of adequate funding for all the administrative and operational costs of the stewardship program, to be covered by participating covered entities;

“(5) A description of the handling, transport, and disposal system for all covered products, that complies with applicable District and federal laws, including policies and procedures for the safe and secure collection, transportation, and disposal of covered products;

“(6) A description of the proposed collection system designed to provide convenient and ongoing collection services for covered products that:

“(A) Complies with applicable District and federal laws;

“(B) Provides for a minimum of one authorized collection site per 10,000 people; and

583 “(C) Provides for a reasonable geographic spread of authorized collection
584 sites across all 8 wards, and an explanation for the geographic spread;

585 “(D) Includes a service schedule that meets the needs of each authorized
586 collection site to ensure that each secure collection receptacle is serviced as often as necessary to
587 avoid reaching capacity and that collected covered products are transported to final disposal in a
588 timely manner; and

589 “(E) Provides that end user who is homeless, homebound, or disabled can
590 obtain, by request, prepaid, preaddressed mail-back envelopes to safely dispose of covered
591 products; and

592 “(7) A description of the educational and outreach provisions to meet the
593 requirements in section 139.

594 “(c) (1) At least 120 days before submitting a proposed stewardship plan, the program
595 operator shall notify potential authorized collectors of the opportunity to serve as an authorized
596 collector for the proposed stewardship program.

597 “(2) A program operator shall include as an authorized collector under its
598 stewardship program any entity that meets the definition of authorized collector and offers to
599 participate in the stewardship program, in writing and without compensation, even if the
600 minimum threshold in paragraph (6)(B) of this subsection has been met.

601 “(3) All retail pharmacies in the District shall serve as authorized collectors.

602 “(d) An approved stewardship plan shall have a term not to exceed 5 years, provided that
603 the covered entity or stewardship organization remains in compliance with the requirements of
604 this subtitle and the terms of the approved plan.

605 “Sec. 139. Education and outreach program.

606 “(a) A program operator shall conduct a comprehensive education and outreach program
607 to promote participation in the stewardship program, including:

608 “(1) Promoting the stewardship program to end users by providing signage for
609 hospitals, pharmacies, and other appropriate locations;

610 “(2) Providing educational and outreach materials for persons authorized to
611 prescribe drugs, pharmacies, pharmacists, end users, and others;

612 “(3) Establishing a website and toll-free phone number that publicizes the location
613 of authorized collectors and provides other information to promote use of the stewardship
614 program; and

615 “(4) Preparing and providing additional outreach materials to promote the
616 collection and proper management of home-generated sharps waste.

617 “(b) Within 6 months of the effective date of this subtitle, and annually thereafter, a
618 program operator shall conduct a statistically meaningful survey of pharmacists, retailers, and
619 health professionals who interact with patients on the use of sharps. The survey shall include
620 questions designed to assess:

621 (1) Awareness of the stewardship program, the stewardship plans in operation,
622 and the location of all available collection sites; and

623 (2) Whether collection methods are safe, convenient, easy to use, and used by end
624 users.

625 “Sec. 140. Reporting and recordkeeping requirements.

626 “(a) On or before January 1, 2021, and annually thereafter, a program operator shall
627 prepare and submit to DOEE a written report.

628 “(b) An annual report submitted under subsection (a) of this section shall include the
629 following:

630 “(1) A list of covered entities participating in the stewardship organization;

631 “(2) An updated and verified list provided under section 137 of covered products
632 that each covered entity subject to the stewardship plan sells or offers for sale;

633 “(3) The amount, by weight, of covered products collected from end users at each
634 authorized collection site that is part of the stewardship program;

635 “(4) Whether policies and procedures for collecting, transporting, and disposing
636 of covered products, as established in the stewardship plan, were followed during the reporting
637 period, and a description of each instance of noncompliance, if applicable;

638 “(5) Whether any safety or security problems occurred during collection,
639 transportation, or disposal of collected covered products during the reporting period and if so,
640 what changes have been or will be made to policies, procedures, or tracking mechanisms to
641 alleviate the problem and improve safety and security;

642 “(6) How the program operator complied with all elements in its stewardship
643 plan;

644 “(7) Anticipated costs and recommended funding level necessary to implement
645 the stewardship program for the following year; and

646 “(8) Any other information required by DOEE.

647 “Sec. 141. Department responsibilities.

648 “(a) DOEE shall post on its website a list, updated on an annual basis, of all stewardship
649 organizations with an approved stewardship plan, and covered entities, authorized collection
650 sites, and retail pharmacies provided in the stewardship plans.

651 “(b) DOEE shall assist in educational and outreach efforts to inform the public about the
652 battery stewardship program.

653 “(c) DOEE may charge an administrative fee to producers to cover its oversight costs,
654 including planning, plan review, annual oversight, enforcement, and other directly related tasks.

655 “(d) DOEE may impose an administrative penalty on any covered entity, program
656 operator, stewardship organization, or authorized collector that sells, offers for sale, or provides a
657 covered product in violation of this subtitle.

658 “Sec. 142. Antitrust; Conduct authorized.

659 “(a) A covered entity or stewardship organization implementing or participating in an
660 approved stewardship plan under this subtitle shall be immune from liability for the conduct
661 under District laws relating to antitrust, restraint of trade, unfair trade practices, to the extent that
662 the conduct is reasonably necessary to comply with the provisions of this law.

663 “(b) Subsection (a) of this section shall not apply to an agreement among producers,
664 groups of producers, retailers, wholesalers, or battery stewardship organizations affecting the
665 price of covered products or any agreement restricting the geographic area in which, or
666 customers to whom, covered products shall be sold.”.

667 Sec. 3. The Sustainable DC Omnibus Amendment Act of 2014, effective December 17,
668 2014 (D.C. Law 20-142; D.C. Official Code § 8-1531 *et seq.*), is amended as follows:

669 (a) Section 401 (D.C. Official Code § 8-1531) is amended as follows:

670 (1) Paragraphs (1) and (1A) are redesignated as paragraphs (1A) and (1B),
671 respectively.

672 (2) A new paragraph (1) is added to read as follows:

673 “(1) “Accessory disposable food service ware” means any disposable food service
674 ware that is not used to hold or contain food. This includes straws, utensils, condiment cups and
675 packets, cup sleeves, and napkins, but does not include items such as containers or cups that are
676 used to hold or contain the food.”.

677 (3) A new paragraph (4A) is added to read as follows:

678 “(4A) “Industrial composting facility” means a facility that processes
679 compostable materials through composting, and can accept commercially compostable items
680 such as compostable food service ware.”.

681 (4) A new paragraph (4B) is added to read as follows:

682 “(4B) “Organic waste processing facility” means a facility that processes
683 compostable materials through composting, aerobic digestion, or anaerobic digestion.”.

684 (5) A new paragraph (4C) is added to read as follows:

685 “(4C) “Prepackaged food and beverages” means foods and beverages that are
686 packaged before being offered for sale to a consumer.”.

687 (6) A new paragraph (6) is added to read as follows:

688 “(7) “Reusable food service ware” means food service ware, including plates,
689 bowls, cups, trays, glasses, and utensils, that is manufactured and designed to be washed and
690 sanitized and used repeatedly over an extended period of time.”.

691 (b) Section 403 (D.C. Official Code § 8-1533) is amended to read as follows:

692 “Sec. 403. Compostable or recyclable disposable food service ware required.

693 “(a) A District facility, agency, or department using disposable food service ware shall
694 use compostable or recyclable disposable food service ware; provided, that any District facility,

agency, or department using compostable disposable food service ware shall be subject to the requirements in subsection (d) of this section.

“(b) A District contractor or lessee using disposable food service ware shall use compostable or recyclable disposable food service ware; provided, that any District contractor or lessee using compostable disposable food service ware shall be subject to the requirements in subsection (d) of this section.

“(c) By January 1, 2017, no food service entity shall sell or provide food or beverages, for consumption on or off premises, in disposable food service ware unless the disposable food service ware is compostable or recyclable; provided, that this subsection shall not apply to prepackaged food or beverages that were filled and sealed outside of the District before a food service entity received them, and that any food service entity selling or providing food in compostable food service ware shall be subject to the requirements in subsection (d) of this section.

“(d) By January 1, 2021, any food service entity or District facility, agency, department, contractor, or lessee using or providing compostable disposable food service ware pursuant to this section shall:

“(1) Source-separate all compostable materials generated at its premises and arrange for compostable material to be transported to an organic waste processing facility or composted on site; provided, that:

“(A) Compostable material shall be transported to an organic waste processing facility that can process the compostable disposable food service ware, for example, if the food service ware can only be processed by an industrial composting facility, the food service entity shall arrange for compostable materials to be transported to such a facility; and

718 “(B) On-site composting shall be in-vessel and equipment shall be
719 properly sized to handle and process organic generated at the premises in a safe and sanitary
720 manner;

721 “(2) Provide separate bins for the disposal of compostable material waste in any
722 area where such compostable material is generated and disposed of;

723 “(3) Ensure proper storage for compostable materials onsite that will ensure that it
724 is maintained separately from all other materials generated at the premises, is not commingled
725 with recyclable material or trash, and does not create a public nuisance;

726 “(4) Provide information and training to employees concerning the proper
727 methods to separate and store compostable materials, as well as posted instructions on the proper
728 separation of compostable materials where such instructions will be visible to persons who are
729 disposing of compostable materials; and

730 “(5) Post a sign that states clearly and legibly the trade or business name, address,
731 and telephone number of, and the day and time of pickup by, the private collector that collects
732 the compostable materials, that such establishment transports its own compostable materials, or
733 that such establishment provides for on-site processing for all compostable materials it generates
734 on its premises.

735 “(e) (1) By January 1, 2021, food service entities shall provide accessory disposable food
736 service ware only upon request by the customer or at a self-serve station.

737 “(2) Food service entities shall provide options for customers to affirmatively
738 request accessory disposable food service ware across all ordering platforms, including digital
739 platforms, telephone, and in-person. This requirement shall apply even when a food service
740 entity uses a third-party ordering platform.”.

(c) A new section 406a is added to read as follows:

“Sec. 406a Reusable food service ware required for dining on the premises.

“(a) By January 1, 2021, when selling or providing food and beverages for consumption on the premises, food service entities shall only use reusable food service ware, except as provided in subsection (b) of this section.

“(b)(1) Food service entities that do not have on-site or off-site dishwashing capacity to wash, rinse, and sanitize reusable foodware may request a full or partial waiver from the requirements of subsection (a)(1) of this section if they can demonstrate inability to comply due to space constraints and financial hardship.

“(2) Disposable paper food wrappers, sleeves, and bags, foil wrappers, paper napkins, straws, and paper tray- and plate-liners shall be allowed for dining on the premises as long as they meet the requirements for disposable food service ware under section 403.

“(3) The requirement in subsection (a) of this section shall not apply to prepackaged food items.

“(4) The requirements in subsection (a) of this section shall not apply to food service entities that have limited capacity for on-premises consumption, or to food service entities that have a shared onsite dining space, such as a food hall or food court, where there is no designated space for the food service entity.

“(5) Food service entities may comply with this section by offering compostable food service ware and providing for disposal in accordance with section 403(d).

“(c) Upon the effective date of this section, new business licenses for food service entities shall only be granted to entities that have adequate onsite or offsite dishwashing capacity to comply with subsection (a) of this section.”.

764 “(d) DOEE shall make available grants for food service entities to help cover the costs of
765 coming into compliance with this section, such as dishwashing capacity or reusable food service
766 ware.”.

767 Sec. 4. Section 704.2 of title 21 of the District of Columbia Municipal Regulations is
768 repealed.

769 Sec. 5. Fiscal impact statement.

770 The Council adopts the fiscal impact statement in the committee report as the fiscal
771 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
772 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

773 Sec. 6. Effective date.

774 This act shall take effect following approval by the Mayor (or in the event of veto by the
775 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
776 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
777 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
778 Columbia Register.

779